

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PERMASTEELISA NORTH AMERICA  
CORP.,

Civil Action No.  
08 Civ. 4663 (LAK)(AJP)

Plaintiff,

-against-

LIBERTY MUTUAL FIRE INSURANCE  
COMPANY,

**NOTICE OF MOTION TO  
DISMISS THE COMPLAINT**

Defendant.

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**M A D A M S / S I R S :**

**PLEASE TAKE NOTICE**, that upon the annexed affidavit of Marshall T. Potashner, sworn to on June 5, 2008, the Complaint annexed thereto, and the accompanying memorandum of law, defendant LIBERTY MUTUAL INSURANCE COMPANY ("Liberty Mutual") will move this Court before the Honorable Lewis A. Kaplan, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl St., Courtroom 12D, on a date and at a time determined by the Court, for an Order, pursuant to Fed. R. Civ. P. 12(b)(6) & (7), Fed. R. Civ. P. 17(a), and Fed. R. Civ. P. 19(a), dismissing the Complaint of plaintiff PERMASTEELISA NORTH AMERICA CORP. ("Permasteelisa") unless Travelers Indemnity Company and National Union Fire Insurance Company of Pittsburgh, PA are substituted in the place and instead of Permasteelisa as the real parties in interest and as necessary and indispensable parties in the fair and just adjudication of the issues herein, dismissing Permasteelisa's pray for recovery of the attorneys' fees incurred in prosecuting this action, and granting Liberty Mutual the costs

and disbursements of this action, together with such other and further relief as this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Civil Rule 6.1(b), any opposing affidavits and answering memoranda shall be served upon the undersigned within ten (10) business days after service of the moving papers.

Dated: New York, New York  
June 5, 2008

Yours, etc.,

JAFFE & ASHER LLP

By: 

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